

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 553

To amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 14 (legislative day, MARCH 6), 1995

Ms. MOSELEY-BRAUN introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Age Discrimination in Employment Act of 1967 to reinstate an exemption for certain bona fide hiring and retirement plans applicable to State and local firefighters and law enforcement officers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Age Discrimination  
5       in Employment Amendments of 1995”.

1 **SEC. 2. AGE DISCRIMINATION AMENDMENT.**

2 (a) REPEAL OF REPEALER.—Section 3(b) of the Age  
3 Discrimination in Employment Amendments of 1986 (29  
4 U.S.C. 623 note) is repealed.

5 (b) EXEMPTION.—Section 4(j) of the Age Discrimi-  
6 nation in Employment Act of 1967 (29 U.S.C. 623(j)),  
7 as in effect immediately before December 31, 1993—

8 (1) is reenacted as such section; and

9 (2) as so reenacted, is amended in paragraph  
10 (1) by striking “attained the age” and all that fol-  
11 lows through “1983, and” and inserting the follow-  
12 ing: “attained—

13 “(A) the age of hiring or retirement, re-  
14 spectively, in effect under applicable State or  
15 local law on March 3, 1983; or

16 “(B) if an age of retirement was not in ef-  
17 fect under applicable State or local law on  
18 March 3, 1983, 55 years of age; and”.

19 **SEC. 3. STUDY AND GUIDELINES FOR PERFORMANCE**  
20 **TESTS.**

21 (a) STUDY.—Not later than 3 years after the date  
22 of enactment of this Act, the Chairman of the Equal Em-  
23 ployment Opportunity Commission (referred to in this sec-  
24 tion as “the Chairman”) shall conduct, directly or by con-  
25 tract, a study, and shall submit to the appropriate com-

1 mittees of Congress a report based on the results of the  
2 study that shall include—

3 (1) a list and description of all tests available  
4 for the assessment of abilities important for the  
5 completion of public safety tasks performed by law  
6 enforcement officers and firefighters;

7 (2) a list of the public safety tasks for which  
8 adequate tests described in paragraph (1) do not  
9 exist;

10 (3) a description of the technical characteristics  
11 that the tests shall meet to be in compliance with  
12 applicable Federal civil rights law and policies;

13 (4) a description of the alternative methods  
14 that are available for determining minimally accept-  
15 able performance standards on the tests;

16 (5) a description of the administrative stand-  
17 ards that should be met in the administration, scor-  
18 ing, and score interpretation of the tests; and

19 (6) an examination of the extent to which the  
20 tests are cost effective, safe, and comply with the  
21 Federal civil rights law and regulations.

22 (b) ADVISORY GUIDELINES.—Not later than 4 years  
23 after the date of enactment of this Act, the Chairman shall  
24 develop and issue, based on the results of the study re-  
25 quired by subsection (a), advisory guidelines for the ad-

1 ministration and use of physical and mental fitness tests  
2 to measure the ability and competency of law enforcement  
3 officers and firefighters to perform the requirements of the  
4 jobs of the officers and firefighters.

5 (c) CONSULTATION REQUIREMENT; OPPORTUNITY  
6 FOR PUBLIC COMMENT.—

7 (1) CONSULTATION.—The Chairman shall, dur-  
8 ing the conduct of the study required by subsection  
9 (a), consult with—

10 (A) the Deputy Administrator of the  
11 United States Fire Administration;

12 (B) the Director of the Federal Emergency  
13 Management Agency;

14 (C) organizations that represent law en-  
15 forcement officers, firefighters, and employers  
16 of the officers and firefighters; and

17 (D) organizations that represent older indi-  
18 viduals.

19 (2) PUBLIC COMMENT.—Prior to issuing the  
20 advisory guidelines required in subsection (b), the  
21 Chairman shall provide an opportunity for public  
22 comment on the proposed advisory guidelines.

23 (d) DEVELOPMENT OF STANDARDS FOR WELLNESS  
24 PROGRAMS.—Not later than 2 years after the date of en-  
25 actment of this Act, the Chairman shall propose advisory

1 standards for wellness programs for law enforcement offi-  
2 cers and firefighters.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
4 authorized to be appropriated \$5,000,000 to carry out this  
5 section.

6 **SEC. 4. EFFECTIVE DATES.**

7 (a) GENERAL EFFECTIVE DATE.—Except as pro-  
8 vided in subsection (b), this Act and the amendments  
9 made by this Act shall take effect on the date of enactment  
10 of this Act.

11 (b) SPECIAL EFFECTIVE DATE.—The repeal made by  
12 section 2(a) and the reenactment made by section 2(b)(1)  
13 shall take effect on December 31, 1993.

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